

FRAP 46. Attorneys

(a) Admission to the Bar.

(1) Eligibility. An attorney is eligible for admission to the bar of a court of appeals if that attorney is of good moral and professional character and is admitted to practice before the Supreme Court of the United States, the highest court of a state, another United States court of appeals, or a United States district court (including the district courts for Guam, the Northern Mariana Islands, and the Virgin Islands).

(2) Application. An applicant must file an application for admission, on a form approved by the court that contains the applicant's personal statement showing eligibility for membership. The applicant must subscribe to the following oath or affirmation:

"I, _____, do solemnly swear [or affirm] that I will conduct myself as an attorney and counselor of this court, uprightly and according to law; and that I will support the Constitution of the United States."

(3) Admission Procedures. On written or oral motion of a member of the court's bar, the court will act on the application. An applicant may be admitted by oral motion in open court. But, unless the court orders otherwise, an applicant need not appear before the court to be admitted. Upon admission, an applicant must pay the clerk the fee prescribed by local rule or court order.

(b) Suspension or Disbarment.

(1) Standard. A member of the court's bar is subject to suspension or disbarment by the court if the member:

(A) has been suspended or disbarred from practice in any other court; or

(B) is guilty of conduct unbecoming a member of the court's bar.

(2) Procedure. The member must be given an opportunity to show good cause, within the time prescribed by the court, why the member should not be suspended or disbarred.

(3) Order. The court must enter an appropriate order after the member responds and a hearing is held, if requested, or after the time prescribed for a response expires, if no response is made.

(c) Discipline. A court of appeals may discipline an attorney who practices before it for conduct unbecoming a member of the bar or for failure to comply with any court rule. First, however, the court must afford the attorney reasonable notice, an opportunity to show cause to the contrary, and, if requested, a hearing.

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11th Cir. R. 46-1 Attorneys.

(a) Bar Admission and Fees. Only attorneys admitted to the bar of this court may practice before the court, except as otherwise provided in this rule. Admission is governed by FRAP 46 and this Eleventh Circuit Rule. To request admission to the bar, an attorney must complete an application form, available on the Internet at www.ca11.uscourts.gov, and submit the form to the clerk's principal office in Atlanta. The application form must be accompanied by:

- a certificate of good standing issued within the previous six months from a court described in FRAP 46(a)(1); and
- a non-refundable admission fee of \$170.00 payable to Clerk, U.S. Court of Appeals, Eleventh Circuit.

Each member of the bar has a continuing obligation to keep this court informed of any changes to addresses, phone numbers, fax numbers, and e-mail addresses.

(b) Renewal of Bar Membership; Inactive Status. Each attorney admitted to the bar of this court shall pay a bar membership renewal fee of \$10.00 every five years. A new certificate of admission will *not* issue upon payment of this fee. An attorney admitted *after* April 1, 1989, must pay this renewal fee to the clerk every five years from the date of admission. An attorney admitted *before* April 1, 1989, must pay this renewal fee to the clerk during the month indicated in the following schedule, and then during that same month each five years thereafter:

<u>Last Name (Initial)</u>	<u>Payment Due</u>
A - D	April, 1994
E - K	May, 1994
L - R	June, 1994
S - Z	July, 1994

During the first week of the month in which an attorney's renewal fee is due, the clerk shall send a notice to the attorney at the address on the roll of attorneys admitted to practice before this court (attorney roll), and advise the attorney that payment of the renewal fee is due by the last day of that month. If the notice is returned undelivered due to an incorrect address, no further notice will be sent. If the renewal fee is not paid by the last day of the month in which the notice is sent, the attorney's membership in the bar of this court will be placed in inactive status for a period of 12 months, beginning on the first day of the next month. An attorney whose bar membership is in inactive status may not practice before the court. To renew a bar membership, including one in inactive status, an attorney must complete a bar membership renewal form, available on the Internet at www.ca11.uscourts.gov, and submit the form to the clerk's principal office in Atlanta. The renewal form must be accompanied by a non-refundable bar membership renewal fee of \$10.00 payable to U.S. Court of Appeals, Non-Appropriated Fund, 11th Circuit.

After 12 months in inactive status, if an attorney has not paid the bar membership renewal fee, the clerk shall strike the attorney's name from the attorney roll. An attorney whose name is stricken from the attorney roll due to nonpayment of the renewal fee who thereafter wishes to practice before the court must apply for admission to the bar pursuant to section (a) of this rule, unless the attorney is eligible to be admitted for a particular proceeding pursuant to section (c) of this rule.

(c) Admission for Particular Proceeding. The following attorneys shall be admitted for the particular proceeding in which they are appearing without the necessity of formal application or payment of the admission fee: an attorney appearing on behalf of the United States, a federal public defender, an attorney appointed by a federal court under the Criminal Justice Act or appointed to represent a party in forma pauperis. Attorneys in these categories who desire to receive an admission certificate from the Eleventh Circuit must pay the admission fee.

(d) Pro Hac Vice Admission. An attorney who does not reside in the circuit but is otherwise eligible for admission to the bar pursuant to FRAP 46 and this Rule may apply to appear pro hac vice in a particular proceeding. The following items must be provided:

- a completed Application to Appear Pro Hac Vice form, available on the Internet at www.ca11.uscourts.gov, with proof of service;
- a certificate of good standing issued within the previous six months from the highest court of any state or another United States Court of Appeals; and
- a non-refundable pro hac vice application fee of \$50.00, payable to U.S. Court of Appeals, Non-Appropriated Fund, 11th Circuit.

An attorney may apply to appear before this court pro hac vice only two times.

To practice before the court, an attorney who resides in the circuit or who has two times previously applied to appear before this court pro hac vice, must apply for admission to the bar pursuant to section (a) of this rule, unless the attorney is eligible to be admitted for a particular proceeding pursuant to section (c) of this rule.

The clerk is authorized to grant an application to appear pro hac vice in an appeal not yet assigned or under submission, in such circumstances as determined by the court, when an attorney meets the requirements of the rules.

(e) Entry of Appearance. The clerk may not accept filings from an attorney who is not a member of the court's bar or who is not admitted for the particular proceeding pursuant to court rules or court order. An attorney shall file an Appearance of Counsel Form in each appeal in which the attorney participates within 14 days after notice is mailed by the clerk. After the expiration of 14 days, the clerk may not accept filings (other than a brief) from an attorney who was sent such notice until the attorney files an Appearance of Counsel Form. When an attorney who has not filed an Appearance of Counsel Form tenders a brief for filing, the clerk shall treat the failure to file an Appearance of Counsel Form as a deficiency in the form of a brief. A motion to file an Appearance of Counsel Form out of time is not required. A court-appointed attorney is not required to file an Appearance of Counsel Form, and the clerk may treat this court's order appointing counsel as an appearance form.

An Appearance of Counsel Form must be filed prior to oral argument by any attorney (except court-appointed counsel) intending to argue.

(f) Certificate of Admission. Upon admission to the bar of this court, the clerk will send the attorney a certificate of admission. If the attorney thereafter requests a duplicate of the certificate of admission, it will be provided to counsel upon payment of a fee of \$15.00 made payable to Clerk, U.S. Court of Appeals, Eleventh Circuit.

(g) Attorney Discipline. This court has adopted rules governing attorney conduct and discipline. See Addendum Eight.

(h) Appointment or Withdrawal of Counsel.

(1) Appellate Obligations of Retained Counsel. Retained counsel for a criminal defendant has an obligation to continue to represent that defendant until successor counsel either enters an appearance or is appointed under the Criminal Justice Act, and may not abandon or cease representation of a defendant except upon order of the court.

(2) Habeas Corpus or 28 U.S.C. § 2255 Pauper Appeals. When any pro se appeal for either habeas corpus or 2255 relief is classified for oral argument, counsel will normally be appointed under the Criminal Justice Act before the appeal is calendared. The screening panel which classifies the appeal for oral argument will advise the clerk who will then obtain counsel under the regular procedure.

(3) Relieving Court Appointed Counsel on Appeal. Counsel appointed by the trial court shall not be relieved on appeal except in the event of incompatibility between attorney and client or other serious circumstances.

(4) Criminal Justice Act Appointments. The Judicial Council of this circuit has adopted the Eleventh Circuit Plan under the Criminal Justice Act and Guidelines for Counsel Supplementing the Eleventh Circuit Plan under the Criminal Justice Act. See Addendum Four.

(5) Non-Criminal Justice Act Appointments. This court has adopted rules governing Non-Criminal Justice Act Appointments. See Addendum Five.

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I.O.P. -

1. Admissions. *There is no formal swearing-in ceremony.*

2. Check Returned for Insufficient Funds. *When a check in payment of a fee is returned unpaid by a financial institution due to insufficient funds, counsel must thereafter pay the fee by money order or cashier's check made payable to the same entity or account as the returned check. In addition, because 28 U.S.C. § 1913 imposes a fee of \$45.00 when a check is returned for insufficient funds,*

counsel must also remit a separate money order or cashier's check in the amount of \$45.00 made payable to "Clerk, U.S. Court of Appeals, Eleventh Circuit."

3. Components of Attorney Admission Fee. The \$170 attorney admission fee is composed of two separate fees. A national admission fee of \$150 has been prescribed by the Judicial Conference of the United States in the Court of Appeals Miscellaneous Fee Schedule issued pursuant to 28 U.S.C. § 1913. This \$150 admission fee is remitted to the federal judiciary. A local admission fee of \$20 has been prescribed by this court pursuant to FRAP 46(a)(3). This \$20 admission fee is deposited in the court's non-appropriated fund account to be used for the benefit of the bench and bar in the administration of justice.